

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NOKIA CORPORATION and)
NOKIA INC.,)
)
Plaintiffs,)
)
 vs.) C. A. No. 05-16 (JJF)
)
INTERDIGITAL COMMUNICATIONS)
CORPORATION and INTERDIGITAL)
TECHNOLOGY CORPORATION,)
)
Defendants.)

RULE 16 SCHEDULING ORDER

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

The parties jointly request a brief hearing to discuss the Proposed Rule 16 Scheduling Order and their respective positions on issues where agreement could not be reached.

IT IS ORDERED that:

1. Pre-Discovery Disclosures. The parties will exchange by March 15, 2006 the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.
2. Joinder of Other Parties. All motions to join other parties shall be filed on or before June 15, 2006.
3. Settlement Conference.
 - (A) *Nokia's Position:* No Settlement Conference necessary.
 - (B) *InterDigital's Position:* Pursuant to 28 U.S.C. § 636, this matter is referred to Magistrate Judge Thyng for the purposes of exploring the possibility of a settlement. If the parties agree that they would benefit from a settlement conference, the

parties shall contract Magistrate Judge Thynge to schedule a settlement conference so as to be completed no later than the Pretrial Conference or a date ordered by the Court.

4. Interim Status Report.

(A) *Nokia's Position:* No Interim Status Report necessary.

(B) *InterDigital's Position:* On July 3, 2006, the parties shall file with the Court an interim report on the nature of the matters in issue and the progress of discovery to date. At this time, the parties shall not be required to file quarterly reports under L.R.16.1(b)(1). The Court shall have a status conference with the parties on August 4, 2006, at which time it shall determine the necessity for and frequency of any future reports regarding discovery.

3. Discovery.

(a) (A) *Nokia's Position:* Exchange and completion of contention interrogatories, identification of fact witnesses and document production shall be commenced so as to be completed by May 15, 2006. Each party may supplement its responses to contention interrogatories by August 15, 2006 and November 15, 2006.

(B). *InterDigital's Position:* Exchange and completion of interrogatories, identification of fact witnesses and document production shall be completed by December 29, 2006.

(b) Maximum of 50 interrogatories, including contention interrogatories, for each side.

(c) Maximum of 75 requests for admission by each side.

(d) Maximum of 20 depositions by plaintiff and 20 by defendant.

Depositions shall not commence prior to May 15, 2006. All fact discovery, including depositions, shall be completed by February 15, 2007.

(e) Opening expert reports under Rule 26(a)(2) that relate to issues on which a party has the burden of proof are due on May 1, 2007. Reports under Rule 26(a)(2) that relate to issues on which a party does not have the burden of proof are due on June 15, 2007. Expert discovery will close on July 15, 2007.

(f) Any party desiring to depose an expert witness shall provide notice no later than 15 days after receiving the expert's report, and complete said deposition no later than July 15, 2007 unless otherwise agreed in writing by the parties or ordered by the Court.

(g) The parties shall meet and confer and file a proposed Protective Order governing the protection of discovery materials from public disclosure by March 10, 2006.

4. Discovery Disputes.

(a) (A) *Nokia's Position:* The Court will hold a discovery conference on May 16, 2006 at 9:00 a.m. The parties' submissions concerning discovery disputes shall be filed by May 11, 2006.

(B) *InterDigital's Position:* No paragraph needed.

(b) A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages and must specify that the filing is pursuant to the Discovery Dispute procedures provided in

this paragraph. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

(c) All papers shall set forth in a plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

(d) Upon receipt of the Answer, the movant shall notify Chambers by e-mail at jjf civil@ded.uscourts.gov that the dispute is ready for decision.

(e) Upon receipt of the movant's e-mail, the Court will determine whether a conference is necessary and advise the parties accordingly.

(f) There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

5. Amendment of the Pleadings. All motions to amend the pleadings shall be filed on or before [*Nokia's position:* January 15, 2007; *InterDigital's position:* September 1, 2006].

6. Case Dispositive Motions.

(A) *Nokia's Position:* Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief thirty days after the Court issues its ruling on claim construction. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. The Court will issue a separate Order regarding procedures for filing summary judgment motions.

(B) *InterDigital's Position:* Any case dispositive motions pursuant to the Federal Rules of Civil Procedure, shall be served and filed on or before August 15, 2007. Briefing shall be pursuant to D.Del. LR 7.1.2.

7. Markman.

(A) *Nokia's Position:* A *Markman* hearing will be held on July 15, 2007.

Briefing on the claim construction issues shall be completed at least ten (10) business days prior to the hearing and according to the following schedule. The Court will set the limitation on the number of claim terms to be submitted for construction.

- (a) Parties agree on disputed claim terms by April 15, 2007.
- (b) Parties file a joint claim construction statement by May 1, 2007.
The statement shall include the construction of those claim terms on which the parties agree and each party's proposed construction of each disputed claim term, together with an identification of all the intrinsic evidence known to the party on which it intends to rely.
- (c) *Markman* opening briefs due by May 15, 2007.
- (d) *Markman* answering briefs due by June 15, 2007.

The Court, after reviewing the briefing, will allocate time to the parties for the hearing.

(B) *InterDigital's Position:* No *Markman* Hearing necessary.

8. Applications by Motion.

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995). Any non-dispositive motion shall contain the statement required by D. Del. 1.R 7.1.1. Parties may file stipulated and

unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

- (b) No facsimile transmissions will be accepted.
- (c) No telephone calls shall be made to Chambers.
- (d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

9. Pretrial Conference and Trial.

(A) *Nokia's Position:* The final Pretrial Conference will be held on February 2, 2008 at 11:00 a.m. A jury trial will be held commencing within sixty (60) to ninety (90) days of the Pretrial conference.

(B) *InterDigital's Position:* The final pretrial conference will be held on October 8, 2007 at 11:00 a.m. A jury trial will be held commencing within 60 to 90 days thereafter.

Date

United States District Court Judge